

Why Competition Law Regimes Succeed or Fail? A Formula One Theory of System Performance

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CRESSE Annual Conference

Crete, 1 July 2017

Common Dimensions

Formula One F1

- Owner
- Driver
- Car
- Team
- Road

Competition Law CL

- Political Leaders
- Agency Head
- Agency Design
- Agency Staff
- Co-Producers (A. Fels): E.g., Courts

Obvious Similarities: F1 and CL

- Global
- Big Stakes
- Celebrities
- Rivalries
- Smash-Ups

The Comparison's Utility

- Imperfect: Performance Measures
 - Easier for F1, Harder for CL
- Informative: Focus Upon System
 - Elements
 - Interdependence/complementarity
 - Improvements
 - Expectations

Joint Work

- David Hyman
- Marianela Lopez-Galdos
 - GW Benchmarking Project
- Marc Winerman
- Caveat: Personal Views Only

Owner(s): F1 Environment

- Goals: Win Races
- Investment: Cars
- Recruitment: Hiring Drivers
- Operational Involvement

Owner(s): CL Applications

- Owners: Head of State and Legislature
- Goals: Not So Clear or Coherent
- Appointments (Removal)
- Investment: Budgets, System Upgrades
- Operational Involvement
- Attitude: Supportive, Hostile, Indifferent

Car(s): F1 Environment

- Power
- Resilience
- Flexibility
- Endurance
- Redundancy
- Upgrades

Car(s): CL Applications

- Substantive Mandate: Which Functions?
 - Going “off-road”?
- Powers
 - Information, policy tools, sanctions
- Quality Control Mechanisms
- Multiplicity: E.g., Private rights
- Upgrades

Driver(s): F1 Environment

- Experience
 - Informs intuition
- Mental Toughness
 - Capacity to handle pressure
- Team Commitment

Driver(s): CL Applications

- Qualifications
 - Essential: knowledge of economy, management experience, political awareness, long-term view, toughness
 - Nice to have: CL expertise
- Board or Single Administrator
 - Team orientation vs. free agent

Team: F1

- High Quality Skills
 - Mechanics
 - Pit crew
- Capacity to Handle Pressure
- Adequate Numbers

Team: CL Applications

- Quality of Professional Staff
 - Economists
 - Lawyers
 - Specialists: Patents, Computer Science
- Experienced Managers
- Total Headcount vs. Quality Personnel

Road

- Condition of Surface
- Difficulty

Road: CL Applications

- Co-Producers: Affect Agency's Speed
- Courts
- Universities
- Professional Societies
- Public Administration Norms

Interdependence/Complementarity

- Can Improve System Performance by Enhancing Any Single Element
 - E.g., improving team
- But Some Enhancements Will Be Ineffective (or Counterproductive) If Other Elements are Neglected
 - Boosting agency powers for weak team

Implications

- Stocktaking of System
- Locating Desired Enhancements
 - What improves performance?
 - What retards performance?

Significance of Political Leadership

- Supportive Leaders: Ideal Condition
- Indifferent Leaders: Adequate Condition
- Hostile/Meddlesome Ownership
 - Stymies nascent regimes
 - Stalls older, better established regimes

Significance of Agency Leadership

- Great Leaders: Ideal Condition
 - Progress possible even with weak car/team if leader focuses on investment
- Adequate Leaders
 - Sufficient if car/team/roads are adequate
- Bad Leadership
 - Fatal for nascent regimes, stalls older regimes
 - Dangerous with high-powered car

Significance of Agency Design

- Stymied by Weak Co-Producers
- Natural Evolution for Nascent Regimes: From Lower-Powered to High-Powered Cars
- High-Powered Designs
 - Dangerous with bad leaders and bad team
- Importance of Upgrades

Significance of Agency Team

- Fundamental Constraint on Output
- Stronger Team
 - Faster and more effective
- Weaker Team
 - Slower and more smash-ups

Significance of Co-Producers

- Essential to Higher Speed/Effectiveness
- Weak Co-Producers
 - Undermine team (universities)
 - Reduce speed/effectiveness (courts and quality of public administration)

Conclusion

- Better System Performance Measures
- Evaluation
 - Outcomes
 - Link: system elements and outcomes
- Incentives
 - Investments to build capability